

MAINE REVENUE SERVICES
(FORMERLY BUREAU OF TAXATION)
SALES/EXCISE TAX DIVISION
RULE NO. 303

SALES TO INDUSTRIAL USERS

SUMMARY: Interprets the Sales and Use Tax Law as it pertains to the exemption provisions of machinery and equipment used in production, and consumed or destroyed items.

.01 Definitions.

A. Production. "Production" referred to in Sec. 1752(9-B) commences with the movement of raw materials to the first production machine after their receipt and storage at production site (after receipt if the raw materials are not stored) and ends with the completion of the finished product, including any packaging operation. The acquisition of raw materials, the transportation of raw materials or goods in process between production sites, and administrative and distributive operations do not constitute production.

B. Foundations. "Foundations" referred to in Sec. 1752(7-B), includes permanent supports, such as those composed of concrete. Metal supports which can be dismantled and moved will be considered part of the machinery or equipment which they support and be exempt if the machinery or equipment itself is exempt.

C. Directly. "Directly" referred to in Sec. 1752(2-A) excludes support operations, such as machine shops in which production equipment is maintained. Testing for quality control is directly in production only insofar as those testing devices are physically incorporated in machinery or equipment which is otherwise exempt.

02. Consumed or Destroyed Items.

A. Tangible personal property which has a normal physical life expectancy of less than one year is exempt under the following circumstances:

1. Items that are integrated with and essential to the operation of production machinery and equipment that is used directly and primarily in production.

NOTE: Items under this category will normally include but not be limited to such items as abrasives, coolants, lubricants, filtering materials, etc.

2. Items which come in contact with, or are added to, the raw product during production, but which are later extracted or dissipated and do not become a component part of the tangible personal property produced.

NOTE: Items under this category will normally include but not be limited to such items as catalysts, chemicals, solvents, liquids, etc.

3. Items which come in contact with the products produced which are an integral and essential part of production.

NOTE: Items under this category will normally include but not be limited to abrasives, polishing agents, stencil materials, tagging materials, etc.

B. Tangible personal property is taxable under the following circumstances:

1. Items consumed or destroyed in areas before production begins and after production has ended as provided in Sec. 1752(9-B) of the law and Sec. 01(A) of this rule.

2. Items consumed or destroyed in areas which are not "directly" in production as provided in Sec. 1752(2-A) of the law and Sec.01(C) of this rule.

NOTE: Items under this category will normally include but not be limited to the following:

- a. Cleaning supplies, including floor sweeping compounds, soaps, etc., regardless of where used.
- b. Steam used to heat buildings, including the production area.
- c. Personal apparel used by employees, including aprons, gloves, hair nets, ear plugs, face shields or masks, etc.
- d. Light bulbs, flash lights and batteries, used for lighting.
- e. Chemicals or supplies of any kind used in quality control and research laboratories.
- f. Supplies used in maintenance of production machinery and equipment, including abrasives, files, grinding oil, etc.

C. Tangible personal property is "consumed or destroyed" for the purposes of 36 M.R.S.A. Sec. 1752(11) when it has a normal life expectancy of less than one year, based upon the experience of the particular taxpayer, in the use to which it is applied. "Life expectancy" means physical life expectancy without regard to obsolescence.

.03 Certification requirement.

Where the sale of tangible personal property is claimed to be non-taxable under the provisions noted herein, the purchaser shall furnish the seller with a certificate in the form prescribed by the State Tax Assessor; and on the furnishing of such certificate the purchaser shall be held solely accountable for the payment to the State of any taxes, together with penalties and interest thereon, that may later be determined to be due on such purchases in accordance with the applicable provision of the law or this Rule.

The certificate shall be considered a part of each order for the tangible personal property unless the purchaser advises the seller to the contrary at the time the order is placed; and such certificate shall remain in effect until revoked by the purchaser in writing.

AUTHORITY: 36 M.R.S.A., Section 112.1

EFFECTIVE DATE: June 1, 1951

Last Amended: November 12, 1989